

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ANTOINE GORUM, a.k.a. RONALD CLARK,

Plaintiff,

vs.

JAMES G. COX, *et al.*,

Defendants.

Case No. 2:13-cv-01412-KJD-GWF


**ORDER AND REPORT
AND RECOMMENDATION**

This matter is before the Court on Defendants' Motion for Clarification (#76), filed on September 15, 2015. This matter is also before the Court on Plaintiff's Motion for Default Judgment (#77), filed on September 25, 2015. This matter is also before the Court on Plaintiff's Motion for Court to Send Defendant a Copy of Default Motion (#78), filed on September 25, 2015.

Defendants seek clarification of Court's Order #74, which granted Plaintiff leave to file a third amended complaint. Defendants were given 60 days to respond to the third amended complaint, but no deadline was set for the filing of the complaint. To date, no third amended complaint has been filed. Defendants also request clarification on the screening of the amended complaint. The Court will screen Plaintiff's Third Amended Complaint, if filed.

Plaintiff submits a Motion for Default Judgment (#78) because Defendants have not responded to the Third Amended Complaint. The Court granted Plaintiff leave to file a Third Amended Complaint on June 16, 2015. *See* Order (#74). Plaintiff has yet to file an Amended Complaint. Because there is no active complaint in this matter, the motion for default judgment is premature. Furthermore, the Court finds no need to mail a premature motion to Defendants. Accordingly,

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).


GEORGE FOLEY, JR.
United States Magistrate Judge